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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1977

No. 77-922

CHRYSLER CORPORATION,
Petitioner,

vs.

HAROLD BROWN, et al.,
Respondents.

BRIEF OF STANDARD OIL COMPANY OF CALIFORNIA AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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PRELIMINARY STATEMENT

Pursuant to Rule 42(2) of the Rules of this Court, this *amicus curiae* brief in support of Petitioner is filed with the written consents of the Solicitor General and of the Petitioner, which are on file with the Clerk of this Court.

INTEREST OF THE AMICUS CURIAE

The interest of Standard Oil Company of California in the outcome of this case arises from two important

developments in its relationships with agencies of the Federal government.

The first has been the explosion of demands that the Company supply ever-increasing quantities of its private business information and documents to an ever-increasing number of Federal agencies. Enormous quantities of such private business documents have been demanded by the Federal Energy Administration and its successor, the Department of Energy, by the Federal Trade Commission under its Line of Business and Corporate Patterns Report programs[1], and by many other Federal agencies. Standard of California currently submits over 170 reports containing private data to Federal agencies. A summary of these reports is set forth in the Appendix.

In addition to such regular reporting requirements, the Company is engaged in extensive litigation with the Federal government, notably a massive antitrust proceeding, *In the Matter of Exxon, et al.,* FTC Docket No. 8934, in which the Federal Trade Commission charges eight major petroleum companies with having monopolized and maintained a noncompetitive market structure in the refining of crude oil. That proceeding commenced in July 1973. Although it is still the early stages of discovery, the respondents collectively have already produced several million pages of their private business documents and, if the action proceeds as FTC counsel have projected, respondents will be required to produce tens of millions of pages of their private documents.

[1]See *In Re FTC Corporate Patterns Report Litigation* (D.D.C. 1977) 432 F.Supp. 291, appeal pending (D.C. Cir. No. 77-1732).

The second major development has been the unprecedented unwillingness of certain Federal agencies to grant any adequate protection to the Company's private documents and information, even where they are exempt from disclosure under the Freedom of Information Act, and even where they are expressly protected from disclosure by statute. For example, the Federal Trade Commission's Rules of Practice now authorize its General Counsel "to release • • • [private] records exempt from mandatory disclosure under 5 U.S.C. § 552(b)" as an act of discretion, without the slightest mention of standards for such release (16 C.F.R. § 4.11(a)(2)(iii)). The Commission has exercised this purported discretionary power with little or no regard for a company's legitimate interest in maintaining the privacy of its business information (see *F.T.C.* v. *Texaco, Inc.* (D.C.Cir. 1975) 517 F.2d 137, reversed en banc (D.C.Cir. 1977) 555 F.2d 862, certiorari denied (1977) 431 U.S. 974). And the Commission has now proposed to amend its Rules of Practice expressly to incorporate its present practice of *refusing even to provide notice* to the supplying party of some such disclosures (43 Fed.Reg. (Jan. 26, 1978), pp. 3571-3574, proposed § 4.10b(a)(6)(ii)).

This recent disclosure practice by Federal agencies, not confined to the Federal Trade Commission, ostensibly has been based, in the words of the court of appeals in the instant case, on the "general philosophy" of full agency disclosure embodied in the Freedom of Information Act (565 F.2d 1185). But this "general philosophy" applies only to disclosure of *agency records* pertinent to *agency action;* it has no application to disclosure of *private*

documents pertinent to *private business affairs,* for at least three reasons.

1. Disclosure of private business information in no way serves the purposes of the Freedom of Information Act. This Court emphasized in *NLRB* v. *Sears, Roebuck & Co.* (1975) 421 U.S. 132, 143, n. 10: "The Act is fundamentally designed to inform the public about *agency action*" (emphasis supplied), and *not* about the conduct of private business. Private documents, particularly when submitted in response to a subpoena or other legal compulsion (whether they are confidential documents or nonconfidential but nevertheless private documents), are not "agency records" subject to release under the Act. They are *private* records which are not converted into agency records by their compulsory production to a Federal agency.

2. The Freedom of Information Act itself states in exemption 4 that it "does not apply" to "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. § 552(b)(4)). As to such documents, the Act's "philosophy" is not "full agency disclosure," but instead it is specifically nondisclosure.

3. Private documents of "trade secret" or "confidential" business nature are protected from disclosure by a number of statutes, most notably by provisions of 18 U.S.C. § 1905. But despite the plain and mandatory terms of this criminal statute, the regulations of some Federal agencies and the decisions of some Federal courts have effectively deprived it of force. The decision of the court

of appeals in this case that a Federal agency has power to relieve itself of any obligation under 18 U.S.C. § 1905 by promulgating a regulation under a "general housekeeping" statute is a flagrant example.

Because of Federal agencies' unwillingness or inability to protect against the disclosure of its private business documents and information to its competitors, to its opponents in litigation and to others, Standard of California has been forced to resort to Federal courts with increasing frequency to protect its rights. One such case is *Federal Trade Commission* v. *Robert O. Anderson, et al.* (D.C.Cir. No. 78-1032) (appeal pending) in which Standard of California and other respondents in FTC Docket No. 8934, supra, are seeking assurance that the Federal Trade Commission will protect their private documents submitted in the course of discovery in that proceeding. The *Anderson* case is pending on appeal in the District of Columbia Circuit, and this Court's decision in the present case may be of major importance in that action and in other cases in which the Company is attempting to protect its private business information from improper disclosure.

Unwarranted government disclosure of a private company's proprietary data threatens to cause much more than competitive harm. In the *Anderson* case, supra, the Federal Trade Commission, under a construction of the Freedom of Information Act much the same as that of the court of appeals in this action, adopted a "protective order" which permits the release of private documents produced by Standard of California during discovery in

FTC Docket No. 8934 to the Company's opponents in other litigation in other forums, to which the Commission is not a party and in which it has no direct interest. The Commission's "protective order" does not even guarantee the Company *notice* prior to such release.

Entirely apart from proprietary and competitive considerations, such ex parte disclosures would deny Standard of California the basic fairness guaranteed by the Due Process Clause in cases to which it is a party. In similar circumstances in *F.T.C.* v. *Atlantic Richfield Co.* (D.C. Cir. 1977) 567 F.2d 96, the court of appeals recognized that the transfer without notice by the Federal Trade Commission of private documents and data from one proceeding to another "would appear to negate all the authority and responsibility" of the trial judge and "all the notice and opportunity to object" which is the purpose of adjudicative discovery procedures (567 F.2d 104). The court emphasized that "[t]his area of inquiry—one which deals with such basic notions as notice and opportunity to be heard—inherently raises questions relating to due process" (567 F.2d 103).

To protect its private documents, its proprietary and competitive interests, and its right to due process of law, Standard of California submits the present brief as *amicus curiae* in support of Petitioner.

SUMMARY OF THE ARGUMENT

The court of appeals disregarded the central purpose of exemption 4 of the Freedom of Information Act which,

as the hearings, reports and debates demonstrate, was to *protect* private business information from public disclosure (*Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1975) 542 F.2d 1190, 1210-1211). The Freedom of Information Act was designed to inform the public about the workings of government, and not about the conduct of private business (*NLRB* v. *Sears, Roebuck & Co.* (1975) 421 U.S. 132, 143, n. 10; *SDC Development Corp.* v. *Mathews* (9 Cir. 1976) 542 F.2d 1116, 1118-1119). Private records covered by exemption 4 do not reveal the structure, operation or decision-making processes of the government. They are *private* records, and they do not become public records subject to disclosure under the Act simply by virtue of their compulsory production to a Federal agency. Contrary to the court of appeals' conclusion, disclosure of the *private* data and information protected by exemption 4 would do nothing to serve the purposes of the Freedom of Information Act.

To construe the Freedom of Information Act to permit disclosure of such private data would raise serious Constitutional questions under the Fifth Amendment, and would be contrary to long-standing common-law principles which protect private business information from public disclosure. Only the plainest statement of Congressional purpose, which is nonexistent, should persuade this Court to adopt such a construction.

The court of appeals was in error in concluding that an agency's disclosure of exemption 4 information can not be said to be arbitrary, capricious or unlawful if the agency offers any minimal explanation of why it believes such disclosure to be in the "public interest." Unlike the

Government in the Sunshine Act, the Freedom of Information Act contains no authorization to disclose exempt materials in the public interest. In enacting exemption 4, the Congress determined that the public interest lies in the protection of such private business information from public disclosure, both as a matter of fairness and as a matter of right. The agencies have no discretion to override that Congressional determination.

The court of appeals also disregarded the 110-year-old criminal prohibition against disclosure of trade secrets and other private business information embodied in 18 U.S.C. § 1905. The provision of section 1905 that disclosures are permitted when "authorized by law" obviously was not intended to empower an agency to override the long-standing substantive policy of that criminal statute under the ministerial authorization to make regulations regarding the "custody, use and preservation of its records" contained in 5 U.S.C. § 301. The holding of the court of appeals in this regard not only defies common sense, but is contrary to the clear legislative history both of 5 U.S.C. § 301 and of 18 U.S.C. § 1905. That history establishes that the "authorized by law" exception to 18 U.S.C. § 1905 is confined to *statutes* expressly authorizing disclosure.

This case is an obvious one for the implication of any civil remedy necessary to prevent public disclosure of the private information protected by exemption 4 of the Freedom of Information Act and by 18 U.S.C. § 1905 (*Cort* v. *Ash* (1975) 422 U.S. 66, 78; *Wyandotte Co.* v. *United States* (1967) 398 U.S. 191, 202; *Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1976) 542 F.2d 1190,

1211). In addition, there is an express civil remedy under the Administrative Procedure Act (5 U.S.C. § 706(2)(A)). De novo review is essential because agency fact-finding procedures, restricted by the 10-day period for decision on the question of release provided by the Freedom of Information Act, are patently inadequate.

ARGUMENT

I. THE DECISION BELOW DISREGARDS THE EXPRESS PURPOSE OF EXEMPTION 4 OF THE FREEDOM OF INFORMATION ACT TO PROTECT TRADE SECRETS AND CONFIDENTIAL BUSINESS INFORMATION.

The basic error of the court of appeals was its disregard of the central purpose of exemption 4 to protect trade secrets and other confidential business information from public disclosure. The predecessor of the bill that became the Freedom of Information Act "contained no exemption for trade secrets or commercial or financial information" (*National Parks and Conservation Ass'n* v. *Morton* (D.C.Cir. 1974) 498 F.2d 765, 768). This omission was strongly criticized in the hearings on the bill. The Department of Justice endorsed the view that an "exemption for 'trade secrets' *would avert the danger that valuable business information would be made public by agencies which had obtained it*" (498 F.2d 768) (emphasis supplied). The Department emphasized that:

> "A second problem area lies in the large body of the Government's information involving private business data and trade secrets, the disclosure of which could severely damage individual enterprise and cause widespread disruption of the channels of commerce.
> • • •

> "• • • *Not only as a matter of fairness, but as a matter of right, and as a matter basic to our free enterprise system, private business information should be afforded appropriate protection, at least from competitors*" (Hearings on S. 1666, Subcomm. of Senate Comm. on the Judiciary, 89th Cong., 1st Sess. (1963), p. 199) (emphasis supplied).

Exemption 4 was intended to satisfy this requirement for protection, and the hearings, reports and debates demonstrate the congressional intent that private business information subject to exemption 4 should be *protected* from disclosure (*Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1975) 542 F.2d 1190, 1210-1211).

The court of appeals in the instant case nevertheless concluded that the agency in question had "discretion" to release private data covered by exemption 4 because the Freedom of Information Act does not in explicit terms authorize a cause of action to prevent disclosure by the supplier of the data. The court asserted that to imply a cause of action to prevent disclosure of exempt materials "would be inconsistent with the basic purpose of the FOIA, which was not to afford confidentiality, but to overcome restrictive agency interpretations of the original public information section of the Administrative Procedure Act"; that the "general philosophy" of the Act is one of "full agency disclosure" to the general public; and that recognition of a cause of action to prevent disclosure of exempt private business data would be "inconsistent with that general philosophy" (565 F.2d 1185).

The premise of the court's decision is incorrect. The legislative history makes clear that the Act does *not*

incorporate any "general philosophy" of "full disclosure" of documents covered by exemption 4. The Act was expressly designed to *protect* such exempt documents from disclosure. By its determination to protect such documents the Congress recognized and followed the long-standing principle that *"the right to collect and use [private] data for public purposes is typically accompanied by a concomitant statutory or regulatory duty to avoid unwarranted disclosures"* (*Whalen* v. *Roe* (1977) 429 U.S. 589, 605) (emphasis supplied).

The purpose of the Act was to inform the public about the workings of the Federal government, in order to develop an informed citizenry (S.Rept. No. 813, 89th Cong., 1st Sess. (1965), pp. 2-3; *NLRB* v. *Sears, Roebuck & Co.* (1975) 421 U.S. 132, 143, n. 10). The Act was *not* designed to inform the public about the workings of private businesses. In *SDC Development Corp.* v. *Mathews* (9 Cir. 1976) 542 F.2d 1116, 1118-1119, the court of appeals recognized this fact in holding that a reference library compiled by the National Library of Medicine did not deal with the "structure, operation and decision-making procedure" of the agency and thus was not an "agency record" subject to disclosure under the Act:

> "The legislative reports • • • support the conclusion that the type of documents Congress was seeking to include in the public disclosure provision of the Freedom of Information Act were primarily those which dealt with the structure, operation, and decision-making procedure of the various governmental agencies" (542 F.2d 1119).

For this reason, it turns the basic thrust of the Freedom of Information Act upside-down to hold that private rec-

ords ipso facto become "agency records" subject to public disclosure merely because the agency has secured their possession. But even on the assumption such documents could in some cases properly be considered to be records of an agency, it is apparent that public disclosure of the private documents and information subject to exemption 4 would do nothing to serve the purposes of the Freedom of Information Act.

The history of exemption 4 reveals that the Congress was well aware that public disclosure of trade secrets and other proprietary business data could cause serious and entirely unwarranted harm to private business. Proprietary business information has traditionally received strong legal protection from disclosure under the common law because "to disclose the trade secret publicly is said to dedicate it to the world and to destroy the owner's proprietary control and the secret's property value" (*United States* v. *International Business Machines Corp.* (S.D.N.Y. 1975) 67 F.R.D. 40, 45). The decision of the court of appeals attributes to the Congress the intent to authorize Federal agencies and employees to make discretionary disclosures of valuable proprietary data in the face of the established common-law principle that "equity will protect against the unwarranted disclosure or use of a trade secret," a rule "'settled beyond peradventure'" (2 Milgrim, Trade Secrets (1977) par. 7.08[1]).

Discretionary disclosures of confidential business data by Federal agencies would also violate the constitutional rule that it is a denial of due process of law to take the valuable property of one person for the private use or benefit of another (*Thompson* v. *Consolidated Gas Co.*

(1937) 300 U.S. 55, 79-80; *Missouri Pacific Railway* v. *Nebraska* (1896) 164 U.S. 403, 417). And even if it be assumed that some "public purpose" could be discerned, such disclosures would be contrary to the Fifth Amendment's prohibition against taking private property for public use without just compensation (*U.S.* v. *General Motors Corp.* (1945) 323 U.S. 373, 378; *Penna. Coal Co.* v. *Mahon* (1922) 260 U.S. 393, 415-416).

Contrary to the suggestion of the court of appeals in the present case (565 F.2d 1193), these considerations of private and constitutional right are not premature at the present juncture simply because there has been no final decision to release the data. The congressional awareness that public disclosure of exemption 4 information "'could severely damage individual enterprise and cause widespread disruption of the channels of commerce,'" and that protection of such data was "'a matter basic to our free enterprise system'" (*National Parks and Conservation Ass'n* v. *Morton* (D.C.Cir. 1974) 498 F.2d 765, 769) is of fundamental significance and should inform this Court's construction of exemption 4. There is no basis for concluding that the Congress intended to leave Federal agencies with unbridled discretion to release private trade secrets and other proprietary information under the undefined "public interest" standard adopted by the court of appeals in this case (565 F.2d 1172, 1192). Only the plainest statement of congressional purpose (which is nonexistent, the plain statement of purpose being to the contrary) should persuade this Court to adopt a construction that not only is fraught with constitutional difficulties but is contrary to long-standing common-law principles that

protect against such disclosures. This Court has frequently emphasized that "construction should go in the direction of constitutional policy even though not commanded by it" (*United States* v. *Johnson* (1944) 323 U.S. 273, 276-277; *United States* v. *Rumely* (1953) 345 U.S. 41, 45-46; *Twenty per Cent. Cases* (1873) 87 U.S. 179, 187). It is equally true that the Act should not be construed as abrogating the settled common-law right to prevent disclosure of proprietary information unless that result is "imperatively required" (*Texas & Pac. Ry.* v. *Abilene Cotton Oil Co.* (1907) 204 U.S. 426, 437; see *Herd & Co.* v. *Krawill Machinery Corp.* (1959) 359 U.S. 297, 304-305; *Brady* v. *Roosevelt S.S. Co.* (1943) 317 U.S. 575, 581; *Shaw* v. *Railroad Co.* (1879) 101 U.S. 557, 565).

The omission of an express cause of action in the supplier of the data to prevent disclosure, in an act which Professor Davis has characterized as a "shabby product" of draftsmanship,[2] is not surprising. The legislative history makes clear that prior to 1967, when the Act became law, Federal agencies had *not* adopted the practice of making trade secrets and other proprietary business information available to the public. The congressional reports emphasize that Federal agencies had interpreted section 3 of the Administrative Procedure Act as it then existed as a "withholding statute," not only as to private business information that *should* be maintained in confidence, but also as to information about the workings of government that *should not* be withheld from the public

[2]Davis, The Information Act: A Preliminary Analysis, 34 U.Chi.L.Rev. (1967) 761, 807.

(e.g., S.Rept. No. 813, 89th Cong., 1st Sess. (1965), pp. 3-6; H.Rept. No. 1497, 89th Cong., 2d Sess. (1966), pp. 2-6). The Freedom of Information Act was intended to overturn that interpretation as to agency records, but *not* as to private business documents covered by exemption 4.

As to private materials, the Congress intended to confirm and continue the prior agency practice of protecting such documents from public disclosure. Nor is there one word in the Act or in its legislative history that evidences any intention to preclude Article III courts from exercising their traditional equitable powers to assure that private information covered by exemption 4 would not be disclosed to the public. This case is an obvious one for the implication of a civil remedy necessary to prevent such improper disclosures because (1) the submitters of proprietary data are the intended special beneficiaries of the exemption, and (2) the legislative history supports such a remedy (see *Cort* v. *Ash* (1975) 422 U.S. 66, 78; *Renegotiation Board* v. *Bannercraft Co.* (1974) 415 U.S. 1, 19-20; *Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1976) 542 F.2d 1190, 1211).

Moreover, the Administrative Procedure Act provides that a reviewing court "shall • • • hold unlawful and set aside" any agency action which is "arbitrary, capricious, or an abuse of discretion" (5 U.S.C. § 706(2)(A)). The court of appeals in this case incorrectly assumed that its role in reviewing an agency decision to disclose information covered by exemption 4 is limited to determining whether "the agency considered the proper factors in determining that disclosure was permitted under its own disclosure regulations" (565 F.2d 1192). The court dis-

regarded the fact that the agency's "disclosure regulations" were themselves inconsistent with the Freedom of Information Act and with its underlying legislative history; and the court apparently acted in the belief that an agency's action cannot be said to be an abuse of discretion if it offers any minimal explanation of why public disclosure of exempt information would be in the "public interest," a standard nowhere mentioned or defined in the Freedom of Information Act (565 F.2d 1192).

The basic fallacy of this approach is that the Congress, in exemption 4, *has already determined where the public interest lies.* The Congress has determined that proprietary material should *not* be disclosed to the public, as a matter of fairness and as a matter of right. As the court of appeals emphasized in *Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1976) 542 F.2d 1190:

> "In enacting such exemption, the Congress had balanced the right to public disclosure against the right of the private party to protection and had opted for the right to privacy in favor of the private interest" (542 F.2d 1211).

There is thus no "discretion" in an agency to disclose exemption 4 materials according to the agency's view of the "public interest" because Congress has determined that the public interest is in protection of such materials. In this connection, as Petitioner has pointed out, there is a distinction between exemption 4, which was designed to protect *private* documents and interests, and other exemptions designed to protect *government* functions and interests. Even if an agency may waive a protection designed for its own benefit, there is no basis for concluding that

the Congress intended to empower an agency to waive a protection designed for private interests.

The Freedom of Information Act stands in marked contrast to the recently enacted Government in the Sunshine Act (5 U.S.C. § 552b), which expressly authorizes an agency to determine that certain of its meetings should be open to the public notwithstanding a potential for disclosure of information covered by some of the Act's exemptions, if the agency "finds that the public interest [so] requires" (5 U.S.C. § 552b(c)) under carefully defined procedures (5 U.S.C. § 552b(d)(1)). Even on the assumption that the Sunshine Act has authorized agencies to disclose exemption 4 materials at certain meetings in the "public interest," *there is no such authorization in the Freedom of Information Act.* In view of the constitutional and statutory questions such disclosures would raise, this Court should require an explicit statement of congressional intent before permitting Federal agencies to make discretionary disclosures of the immense quantities of proprietary data covered by exemption 4 of the Freedom of Information Act.

There is an obvious difference in the subject matter of the Sunshine Act and that of the Freedom of Information Act. The Sunshine Act requires the opening to the public of agency meetings that lie at the heart of government decision-making processes. Such meetings necessarily implicate the congressional concern of informing the public about *workings of the Government.* And agency meetings could not frequently be expected to disclose private business data in a way that would cause competitive harm. Exemption 4 of the Freedom of Information Act deals,

in contrast, with private business documents and information, disclosure of which could do nothing to inform the public about workings of the government, and which would cause competitive harm.[3]

On the remedial issue, as previously noted (supra, p. 15), it follows from the foregoing that a supplier of data has a cause of action under exemption 4 to protect the proprietary data that it has submitted, and to prevent release of the data in violation of law. As the court of appeals observed, the questions of statutory protection under exemption 4 and of a cause of action to prevent release are "interdependent" (565 F.2d 1185).[4]

[3]Proponents of the view that agencies have discretion to release exemption 4 materials have pointed to isolated remarks in congressional reports regarding *the 1974 amendments* to the Act (referring generally to the exemptions as permissive rather than mandatory). The 1974 amendments had nothing to do with either exemption 3 or exemption 4. Moreover, as this Court pointed out in *Illinois Brick Co.* v. *Illinois* (1977) 431 U.S. 720, 734, n. 14:

> "The views expressed by particular legislators as to the meaning of that language • • • 'cannot serve to change the legislative intent of Congress • • • "since the statements were [made] after passage of the • • • Act"'."

[4]As Petitioner has further pointed out, even if the Court were to decide that suppliers of data could not invoke the general equity powers of the Federal courts and that their only cause of action is under section 706 of the Administrative Procedure Act, it does not follow that the district court was precluded from making a de novo determination of the confidentiality of the material in question and the application of exemption 4, as two courts of appeal have held (*Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1976) 542 F.2d 1190, 1213-1215; *Charles River Park "A," Inc.* v. *Department of H. & U. D.* (D.C.Cir. 1975) 519 F.2d 935, 940-941 and n. 4). The need for de novo review is patent in circumstances where the 10-day period provided in the Freedom of Information Act for agency decision on the question of release (5 U.S.C. § 552(a)(6)(A)(i)) is obviously inadequate for development of a full administrative record, and where it has been held that agency decision and release cannot be withheld pending administrative review (see the opinion below, 565 F.2d 1193). De novo review is contemplated under the Administrative Procedure Act where "agency fact finding procedures are inadequate" (*Citizens to Preserve Overton Park* v. *Volpe* (1971) 401 U.S. 402, 415).

II. THE COURT OF APPEALS DENIED THE INTENDED EFFECT OF 18 U.S.C. § 1905.

The court of appeals also erred in permitting a Federal agency to override an express statutory prohibition against disclosure of trade secrets and confidential business information. Standard of California confronted the same problem in *Robert O. Anderson, et al.* v. *Federal Trade Commission* (D.D.C. Misc. No. 77-0161), supra, p. 5, where the Federal Trade Commission cavalierly asserted in argument in the district court that it has the absolute and unbounded discretion to make public disclosures of the Company's private business documents, notwithstanding the criminal prohibition against such disclosures in 18 U.S.C. § 1905 (FTC Reply Mem. in Support of Petition, p. 24 and n. 36).[5]

Section 1905 traces its origin to an 1864 statute that forbade disclosure of confidential business information by Internal Revenue Service employees (Revenue Act of 1864, c. 173, § 38, 13 Stat. 223, 238). In 1940, Congress combined that statute and similar statutes applicable to other agencies in 18 U.S.C. § 1905, to establish a single prohibition applicable to all Federal agencies and employees. Section 1905 thus expresses a *110-year-old Federal*

[5]The Commission made that assertion in the face of the additional prohibition against disclosure of trade secrets and names of customers contained in the Commission's own enabling act (15 U.S.C. § 46(f)).

policy, which reflects the settled common-law and constitutional protection of trade secrets and, additionally, the principle recognized by this Court in *Whalen* v. *Roe* (1977) 429 U.S. 589, that "the right to collect and use [private] data for public purpose is typically accompanied by a concomitant statutory or regulatory duty to avoid unwarranted disclosures" (429 U.S. 605). And section 1905 *was undoubtedly the leading example* of the "nearly 100 statutes • • • which restrict public access to specific Government records" that the Congress had in mind in enacting exemption 3 of the Freedom of Information Act in an effort to ensure that "these [statutes] would *not* be modified" by the Act (H.Rept. No. 1497, 89th Cong., 2d Sess. (1966), p. 10 (emphasis supplied); see *Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1976) 542 F.2d 1190, 1202).

In *Charles River Park "A", Inc.* v. *Department of H. & U.D.* (D.C.Cir. 1975) 519 F.2d 935, the question was whether the Freedom of Information Act was itself a statute "authorizing" disclosure of trade secrets and confidential business data within the meaning of section 1905's exception for disclosures "authorized by law." The court of appeals held that, inasmuch as the Freedom of Information Act "does not apply" to trade secrets and other confidential business information within exemption 4, that Act provides no authority to disclose such materials. Accordingly, the court held that an agency has no discretion to disclose trade secrets and other confidential business information covered by 18 U.S.C. § 1905, as long as that material also falls within the fourth exemption:

"If it does, it would be an abuse of discretion for [the agency] to release the information" (519 F.2d 943).[6]

By the 1976 Sunshine Act amendments to exemption 3, the Congress confirmed the essential holding of *Charles River Park* that at the very least, insofar as material within exemption 4 is also within 18 U.S.C. § 1905, the Freedom of Information Act *prohibits* its disclosure. Contrary to the holding of the court of appeals in this case, the agency has no discretion in the matter. The House Report on the Sunshine Act states that "if material is within the trade secrets exemption of the Freedom of Information Act" then "section 1905 must be considered to ascertain whether the agency is *forbidden* from disclosing the information. *See Charles River Park 'A', Inc.* v. *Dept. of Housing and Urban Development*, 519 F.2d 935, 941 n. 7 (D.C. Cir. 1975) and cases there cited" (House Committee on Government Operations, Rept. No. 94-880, Part I, 94th Cong., 2d Sess. (1976), p. 23) (emphasis supplied).

The provision of 18 U.S.C. § 1905 that disclosures are not prohibited when "authorized by law" obviously was not intended to permit an agency to override the long-standing substantive policy embodied in that criminal statute through a ministerial authorization to make regulations regarding the "custody, use and preservation of its records" in 5 U.S.C. § 301. There is nothing in the legislative history of section 301 that indicates that it is

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[6]While the result was correct, the court's analysis was over-refined. The Freedom of Information Act was plainly intended to preserve 18 U.S.C. § 1905 in its entirety. But the question is academic since the coverage of 18 U.S.C. § 1905 is essentially coterminous with that of exemption 4.

in any way concerned with or addressed to the public disclosure of private business documents protected by other statutes, such as 18 U.S.C. § 1905. To the contrary, as the court of appeals correctly recognized in *Charles River Park "A", Inc.* v. *Department of H. & U.D.* (D.C. Cir. 1975) 519 F.2d 935, 942, that legislative history demonstrates that section 301 was not intended to override 18 U.S.C. § 1905:

> "In 1958 an amendment was added to section 301 which provided that the section 'does not authorize withholding information from the public or limiting the availability of records to the public.' However, the sponsor of the amendment, Congressman Moss, stated explicitly that the amendment did 'not affect the confidential status of information given to the government and carefully detailed in Title 18, United States Code, Section 1905.' 104 Cong. Rec. 6550 (1958)" (519 F.2d 942).

The court of appeals in this action, in disregard of that plain statement, adopted the tortured construction that, since the Congress by the 1958 amendment made clear that section 301 itself was not authority to *withhold* documents, section 301 should be construed as authority to *disclose* private business documents even though such disclosure is otherwise prohibited by 18 U.S.C. § 1905 (565 F.2d 1187). This is an obvious non sequitur. That section 301 itself confers no authority to withhold documents does not mean that it was intended to override the substantive policy of other Federal statutes that do require nondisclosure. It would be "an incredible rule" that a legislative prohibition, such as section 1905, could be overridden by the very executive agencies it was intended to restrain

by the agencies' merely invoking provisions of a "general housekeeping" statute (cf. *Westinghouse Elec. Corp.* v. *Schlesinger* (4 Cir. 1976) 542 F.2d 1190, 1215).[7]

The ruling of the court of appeals attributes to the Congress the implied intent to permit agencies to repeal the historic and specific prohibition of 18 U.S.C. § 1905, contrary to repeated decisions of this Court (*Amell* v. *United States* (1966) 384 U.S. 158, 165-166; *Trade Comm'n* v. *A.P.W. Paper Co.* (1946) 328 U.S. 193, 201-202). The constitutional problems that are raised by the public disclosure of proprietary information protected by 18 U.S.C. § 1905, together with basic considerations of private right and fairness, make it essential that the Court require a plain statutory statement of any intent to otherwise "authorize by law" the disclosure of such information (see the authorities cited, supra, p. 14).

The error of the court of appeals is further demonstrated by the history of 18 U.S.C. § 1905. The original 1864 statute, from which the present language was derived, prevented disclosures "in any manner *other than is provided in this act*" (13 Stat. 238) (emphasis supplied), thus clearly contemplating *statutory* authority for disclosure. The revisers without explanation changed this lan-

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[7]The holding of the court of appeals that an agency housekeeping regulation can override a Federal criminal statute is all the more flagrant where "EEO-1" reports are involved. As the court acknowledged (565 F.2d 1178 and nn. 21, 22), that report must be filed not only with the Office of Federal Contract Compliance (OFCC), but also with the Equal Employment Opportunity Commission (EEOC). The EEOC is statutorily prohibited by the Civil Rights Act of 1964 from disclosing EEO-1 forms, and the court of appeals *still* allowed the OFCC by a housekeeping regulation to authorize disclosure of the same forms.

guage to "in any other manner than may be provided by law" in the preparation of the Revised Statutes of 1873, where it appeared as part of section 3167, and the authorized "by law" terminology was thereafter carried forward without change to become the "to any extent not authorized by law" exception to the current 18 U.S.C. § 1905. In light of this history, the present "authorized by law" language should be read as limited to the same type of authority for disclosure as the original law, namely, to *statutory* authority (*Georgia* v. *Rachel* (1966) 384 U.S. 780, 789-791; *The Conqueror* (1897) 166 U.S. 110, 121-125; *United States* v. *Lacher* (1890) 134 U.S. 624, 626-627).

This construction is also confirmed by the contemporaneous history of the second preceding section to section 3167 in the Revised Statutes of 1878. Section 3165 of the Revised Statutes authorized revenue officials to administer oaths in the performance of their duties where such oaths were "authorized by law to be taken." In 1878, the Congress concluded that this language was inadequate *because it did not permit oaths that were authorized by a valid regulation, but contemplated statutory authorizations only.* Accordingly, the Congress amended section 3165 to permit oaths "authorized by law or *regulation* authorized by law" (emphasis supplied). (The debates are at 7 Cong.Rec. (1878) 4005-4006.)

The holding of the court of appeals that any Federal agency can override the clearly expressed substantive policy of 18 U.S.C. § 1905 by a general housekeeping regulation is at war with the history and terms of 18 U.S.C. § 1905, of exemption 3 of the Freedom of Information Act and of 5 U.S.C. § 301, and it defies common sense. The "authorized by law" exception to section 1905 must be confined to *statutes* expressly authorizing such disclosures.

There is a civil cause of action to prevent disclosures prohibited by section 1905 both under *Wyandotte Co.* v. *United States* (1967) 389 U.S. 191, 202, and under the Administrative Procedure Act (5 U.S.C. § 706(2)(A)).

CONCLUSION

Prior to enactment of the Freedom of Information Act, there was no agency practice of disclosing private business data of the type covered by exemption 4. Such information was uniformly protected by Federal agencies.

The Congress had no intention of eliminating this salutary—indeed essential—protection in the Freedom of Information Act. It adopted exemption 4 to ensure that such protection would continue. Yet in the last 10 years, Federal agencies have turned the Act on its head by reading its policy of "full disclosure" of *agency* information to encompass the *private* business documents and data that the Congress intended to protect. Agency regulations now purport to authorize the disclosure of exempt private information in the unbounded discretion of the agency in defiance of the congressional balancing of the public and private interests that are involved.

This Court should reverse the decision of the court of appeals and affirm the balance that Congress established

by making clear that agencies have no discretion to release to the public the private documents and data in question.

Respectfully submitted,

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Of Counsel

(Appendix Follows)

APPENDIX

Appendix

REPORTS SUBMITTED TO FEDERAL AGENCIES BY STANDARD OIL COMPANY OF CALIFORNIA

DEPARTMENT OF ENERGY

Form or Report No. and Title	Frequency
Form No. 1, "Complainants Report"	As Required
Form No. 15, "Supplier Certification of Unusual Growth Adjustment"	As Required
Form No. 15A, "Notification of Adjustment of Base Volume"	As Required
Form No. 17, "Request for Assignment of Supplier"	As Required
Form No. 18, "Base Supply Volume Report"	As Required
Form No. SG-1, "Survey of Gasoline Sales"	Monthly
Form No. 25, "Certification of Requirements"	Annually
Form No. 90, "Crude Petroleum Production"	Monthly
Form No. 92 and 92A, "No. 2 Heating Oil Price Adjustment"	Monthly
Form No. 100A, "Producers and Wholesalers Report For Propane and Butane"	Monthly
Form No. 101A, "Owners of Stored Product"	As Required
Form No. P101-Q-1, "Crude Oil Allocation Program"	Quarterly
Form No. P102-M-O, "Old Oil Entitlements Program"	Monthly
Form No. 103B, "Propane Storage Monthly Report"	Monthly
Form No. P103-M-O, "Old Oil Entitlements"	Monthly

Form or Report No. and Title	Frequency
Form No. P108-S-O, "Wholesale Purchaser—Resellers Certification"	Monthly
Form No. P109-S-O, "Surplus Propane/Butane Purchase Report"	As Required
Form No. P110-M-1, "Refiners Monthly Cost Allocation Report"	Monthly
Form No. P111-S-O, "Utility Supplier Questionnaire"	As Required
Form No. P113-M-O, "Report of Oil Imports"	Monthly
Form No. P114-M-O, "Monthly Remittance Advice"	Monthly
Form No. P116-S-O, "Request For Refund of Oil Import Fees"	As Required
Form No. P124-M-1, "Domestic Crude Oil Purchasers Report"	Monthly
Form No. P328-Q-O, "Foreign Crude Oil Cost Report"	Quarterly
Form No. P302-M-1, "Report For Product Prices"	Monthly
Form No. P304-M-O, "Monthly Survey Nonbranded Independent Marketers"	Monthly
Form No. P306-M-O, "Monthly Sales"	Monthly
Form No. P309-M-O, "Crude Oil Production Report"	Monthly
Form No. P310-M-O, "Receipts Report"	Monthly
Form No. P311-M-O, "Shipment Reports"	Monthly
Form No. P312-M-O, "Import Receipts Report"	Monthly
Form No. P313-M-O, "Port Movement Report"	Monthly

Form or Report No. and Title	Frequency
Form No. P314-M-O, "Survey of Distillate and Residual Fuel Oil Sales"	Monthly
Form No. P315-M-O, "Survey of Propane Sales"	Monthly
Form No. P320-M-O, "Refinery Report"	Monthly
Form No. P321-M-O, "Bulk Terminal Storage"	Monthly
Form No. P322-M-O, "Pipeline Products"	Monthly
Form No. P323-M-O, "Crude Oil Stocks"	Monthly
Form No. P328-Q-O, "Foreign Crude Oil Cost Report"	Quarterly
Form No. P324-A-O, "Financial Reporting Systems"	Annual
Form No. C-602-S-O, "Major Fuel Burnings/Installation Coal Conversion Report"	As Required
Form No. F701-M-O, "Transfer Pricing Report"	Monthly
Form No. 903, "Refiners Report of Buy/Sell Crude Oil Transactions"	Quarterly
Form No. 1,000, "Prime Suppliers Monthly Report"	Monthly
Form No. 1,001, "Refiners/Importers/Gas Processing Plant Operators Monthly Report"	Monthly
Form No. 1,007, "Report of Petroleum Shipments—Puerto Rico to U.S."	Monthly
Form No. P106-S-O, "Application to State For Petroleum Product Hardship or Emergency Relief"	As Required
Form No. P107-S-O, "State Office of Petroleum Allocation"	Reply to P106-S-O

Form or Report No. and Title	Frequency
Form U317-S-O, "Contract Utility Survey"	As Required
Form U318-M-O, "Underground Gas Storage Report"	Monthly
Form E1A-8, "Retail Motor Fuels Service Station Survey"	Monthly
Form E1A-9, "#2 Heating Oil Supply/Price Monitoring Report"	Monthly
Form E1A-49, "Domestic Crude Oil Entitlements Program—Refiners Report"	Monthly

BUREAU OF MINES

Form or Report No. and Title	Frequency
Form No. 6-1209A, "Production Estimate Sulfur, H_2S, Liquid Sulfur Dioxide"	Annual
Form No. 6-1237A, "Sulfur, H_2S, Liquid Sulfur Dioxide Production and Shipment"	Annual
Form No. 6-1238M, "Sulfur Purity 97% or Better"	Monthly
Form No. 6-1301A, "Shipment of Aviation Fuels"	Annual
Form No. 6-1302MS, "Bulk Terminal Stocks By Sulfur Content"	Monthly
Form No. 6-1305M, "Natural Gas Processing Plant Report"	Monthly
Form No. 6-1320M, "District 5 Petroleum Report Supplement"	Monthly
Form No. 6-1325T, "Crude Oil and Petroleum Product Pipeline Survey"	Annual
Form No. 6-1326A, "Value of Crude Oil Purchase At Wells"	Annual
Form No. 6-1329A, "Shipment of Asphalts and Road Oils"	Annual
Form No. 6-1334A, "Refinery Capacity Report"	Annual
Form No. 6-1335A, "Fuel Consumed For All Purposes"	Annual
Form No. 6-1336A, "Production of Other Finished Products"	Annual
Form No. 6-1337A, "Fuel Oil/Kerosene Sales and Shipments"	Annual
Form No. 6-1341A, "Supply and Disposition of Natural Gas"	Annual
Form No. 6-1343A, "Natural Gas Processing Report"	Annual
Form No. 6-1345A, "Shipment of LPG"	Annual

UNITED STATES GEOLOGICAL SURVEY

Form or Report No. and Title	Frequency
"Letter Reports: To Regional Supervisors U.S.G.S. Filing Requests For Approval To Dispose of Crude Oil Production From Leases on Public Domain Lands and Acquired Lands of the United States"	When Requested
"Middle Dome Production Report on Lessees Operation"	Monthly
Report No. 9-152, "Monthly Statements of Operations Listed By Lease Source and Disposition of Gas and Products"	Monthly
Report No. 9-153, "(Gas) Lessee's Monthly Estimated Report of Sales and Royalty Gas"	OCS — Operations
Report No. 9-153, "(Gas) Lessee's Monthly Report of Actual Sales and Royalties"	OCS — Operations
Report No. 9-329, "Lessee's Monthly Report of Oil, Water and Gas Production By State, Field, Lease and Well"	Monthly
Report No. 330, 331, 331C, "Notice of Intent and Subsequent Report on Drilling Work on Wells"	As Required
Report No. 9-361 (Oil), "Lessee's Monthly Report of Sales and Royalty"	Monthly
Report No. 9-361 (Gas), "Lessee's Monthly Report of Sales and Royalty"	Monthly
"Plans of Development For Fields On Federal Land" (A report to cover each field)	Annual

Form or Report No. and Title	Frequency
Affidavit, "Notice of Intention to Drill"	As Required
Affidavit, "U.S. Oil and Gas Lease Options"	Semi-annually
Affidavit, "U.S. Oil and Gas Lease Acreage"	As Requested
Affidavit, "Reduced Lease Acreage"	As Requested
Affidavit, "Plan of Operation"	As Requested
"Meter Calibration Reports"	Monthly

FEDERAL POWER COMMISSION

Form or Report No. and Title	Frequency
Report No. 4, "Power Plant Report"	Monthly
Report No. 2, "Annual Report of Corporate Information and Summary of Financial Statements"	Annual
Report No. 15, "Natural Gas Company Annual Report of Gas Supply"	Annual
Report No. 40, "Annual Report of Proven Domestic Gas Reserves"	Annual
Report No. 45, "Report of Nonjurisdictional Sales of Natural Gas By Companies to OFFPC Jurisdiction"	Annual
Report No. 64, "Report of Producers' Expenditures"	Annual
Report No. 69, "Alternative Fuel Demand Due to Natural Gas Curtailment"	Semi-annual
Report No. 108, "Sales By Other Parties Under Chevron's Rate Schedule; Recoverable Reserves; Identification of All Fields and Reservoirs Under Each Rate Schedule"	Semi-annual
Report No. 301, "A & B Independent Producers' Report"	Annual
"Annual Cost Data—Flowing Gas"	Two Year
"Rate Schedule Filing"	As Rates Change

INTERSTATE COMMERCE COMMISSION

Form or Report No. and Title	Frequency
Report No. ACV-1-2-3-4, "Report of Property Change"	Annual
Report No. ACV-8 & 9, "Report of Equipment and Tanks Purchased"	Annual
Report No. ACV-11, "Working Capital"	Annual
Report No. ACR-41, "Plant and Equipment Expenditure Survey"	Annual
"Transportation Revenue and Volumes"	Quarterly
"Application For Annual Evaluation"	Annual
"Pipeline Evaluation"	Annual
"Pipeline Capacities"	Semi-annual

BUREAU OF CENSUS

Form or Report No. and Title	Frequency
Report No. MQ-1, "Inventory and Sales Data"	Quarterly
Report No. M3, "Manufacturing Plant Shipments and Inventories"	Monthly
Report No. MQ-C1, "Plant Capacity"	Annual
Report No. MA-13K, "Annual Survey of Oil and Gas"	Annual
Report No. MA-13k (c), "Annual Survey of Oil and Gas, Oil Lease Data"	Annual
Report No. MA-29C, "Sales of Lube and Industrial Oils"	Annual
Report No. MA-100, MA-100SUPP, MA-153, "Annual Survey of Manufacturers"	Annual
Report No. MA-175, "Reports of Shipments For Federal Government Agencies"	Annual
Report No. MA-200, "Survey of Pollution Abatement Cost"	Annual
Report No. NC-X6, "Five Year Census of Business Manufacturing and Mineral Industries"	Five Years
Report No. MCD-13A, "Water Use in Manufacturing"	Two Years
Report No. MC-13A, MC-13B, NCK-13, NCX-1A, "Census of Mineral Industry"	Four Years
Report No. MA-28EL, "Shipment and Production of Inorganic Chemicals"	Annual
Report No. MA-28D, "Shipment and Production of Sulfuric Acid"	Annual
Report No. MA-28E2, "Shipment and Production of Industrial Gases"	Annual

Form or Report No. and Title	Frequency
Report No. BUS-224, "Retail Trade Report"	Annual
Report No. BUS-67, "Current Sales and Credit Report"	Monthly
Report No. TC-400-7 (TC-401), "Census of Transportation"	Four Years
Report No. MC-D-13A, "Refinery Stock Records"	Two Years
Report No. MC-13K, "Census of Mineral Industry"	Five Years
Report No. 333, "Sales and Service From Co-op Stations"	Monthly

BUREAU OF ECONOMIC ANALYSIS

Form or Report No. and Title	Frequency
Report No. BE-10, "Bench Mark Survey"	Five Years
Report No. BE-30, "Ocean Freight Revenues and Expenses"	Annual
Report No. BE-93, "International Transactions In Royalties, Licensing Fees, Management Fees, Etc."	Annual
Report No. BE-133, "Source and Application of Funds of U.S. Direct Investment Abroad"	Annual
Report No. BE-133B, "Follow-up of Property Plant and Equipment Expenditures"	Annual
Report No. BE-133C, "Schedule of Expenditures For Plant and Equipment"	Annual
Report No. BE-452, or 52P, or 52S, "Capital Expenditure and Sales"	Quarterly
Report No. BE-452A, "Capital Expenditures and Sales In Pollution Abatement Expenditures"	Annual
Report No. BE-577, "Transactions With Foreign Subsidiaries or Affiliate Corporations"	Quarterly
Report No. BE-577A, "Transactions With Associated Foreign Enterprises"	Annual
Report No. BE-577S, "Transactions of Primary Foreign With Secondary Foreign Corporations"	Annual
Report No. BE-578, "Operations of Foreign Branches of U.S. Reporters"	Quarterly
Report No. BE-578 (P), "Domestic Trading Losses Relating to Crude Oil Produced By Foreign Affiliates"	Quarterly

Form or Report No. and Title	Frequency
Report No. CIR-1, "Sulfuric Acid Production"	Monthly
Report No. DIB-622P, "Application For Export License"	Monthly
Report No. DIB-623P, "Application For Processing Card"	Monthly
Report No. DIB-628, "Export License"	Monthly
Report No. FC-3 (Monthly), FC-3A (Quarterly) "Reports of Assets, Liabilities and Positions In Foreign Currencies"	Monthly
Report No. FC-4, "Consolidated Report of Assets, Liabilities In Positions In Currencies of Foreign Branches in Subsidiaries"	Quarterly
Report No. 6-4, "Extension of Credit For Crude Purchase"	Quarterly

DEPARTMENT OF LABOR

Form or Report No. and Title	Frequency
"Specification For Wholesale Price Index"	Monthly
EEO-1 Form 100, "Statistics on Minority and Female Employment"	Annual
Affirmative Action "Report and Data on Various Types of Employees in Various Job and Salary Levels"	Annual
Affirmative Action "Report on Employed Handicapped"	Annual
Affirmative Action "Report on Employed Veterans"	Annual
"Response to Charge of Discrimination"	When Requested

DEPARTMENT OF TRANSPORTATION

Form or Report No. and Title	Frequency
Report No. 71002-1, "Description of Pipe, Number of Miles, Size, Location and Frequency of Inspection of Transmission and Gathering Systems"	Annual
F5800.1, "Hazardous Materials Incident Report"	As Required
MCS-50-T, "Accident Report"	As Required

BUREAU OF CUSTOMS

Form or Report No. and Title	Frequency
3299 "Declaration for Free Entry of Articles Not Accompanying a Resident"	All Items
3111 "Declaration for Free Entry of Returned American Products"	All Items
3351 "Release for Unaccompanied Tourist Shipment"	All Items
3581 "Proprietor's Warehouse Bond"	Annual
CF-3588 "Private Carrier Bond"	Annual
3855 "Bond of Customs' Cartmen or Lightermen"	Annual
5291 "Treasury Power of Attorney"	Annual
7501-A "Consumption Entry"	All Items
7502 "Warehouse or Re-Warehouse Entry"	All Items
7502-A "Warehouse or Re-Warehouse Entry"	All Items
7505-A "Warehouse Withdrawal for Consumption"	All Items
7506 "Warehouse Withdrawal Conditionally Free of Duty and Permit"	All Items
7511-A "Notice of Exportation of Articles With Benefit of Drawback"	All Items
7512 "Transportation Entry and Manifest of Goods Subject to Customs, Inspection and Permit"	All Items
7525 "Schedule B, Shipper's Export Declaration"	All Items
7529 "Carrier Certificate and Release Order"	All Items
7551 "Immediate Delivery and Consumption Entry Bond"	All Items
7555 "Warehouse Entry Bond"	All Items

FEDERAL TRADE COMMISSION

Form or Report No. and Title	Frequency
LB II A&B "Line of Business Report"	Annual
LB III A, A-1, B, C Financial Data "Line of Business Report"	Annual
MG "Income Statement and Balance Sheet"	Quarterly
CPR-1 "Corporate Patterns Report"	Annual
"Pre-Merger Notification"	Annual
NB-1 "Nature of Business Report"	On Request